

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

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| Windstream Communications |) | WC Docket No. 10-90 |
| Petition For Waiver Of Certain |) | |
| High-Cost Universal Service Rules |) | WC Docket No. 05-337 |

COMMENTS OF UNITED STATES CELLULAR CORPORATION

United States Cellular Corporation (“U.S. Cellular”), by counsel and pursuant to the Commission’s Public Notice,¹ hereby opposes the petition for waiver filed by Windstream Corporation, on July 24, 2012. Windstream’s request rehashes its advocacy from the prior rulemaking proceeding, presenting nothing to warrant a change the Commission’s decision to reject similar relief. Rather than invest scarce universal service funding in middle-mile facilities that will have negligible short-term impact on end users, the Commission should quickly reallocate program funds to the upcoming Mobility Fund auction, in order to speed deployment of broadband service to rural consumers in an efficient manner and at the earliest possible date. In support of this request, the following is respectfully shown:

I. Background

CAF Phase I, a transitional support mechanism designed and proposed by price cap carriers, was adopted in the CAF Order, ostensibly to “immediately start to accelerate broadband

¹ Wireline Competition Bureau Seeks Comment On Windstream Communications Petition For Waiver Of Certain High-Cost Universal Service Rules, Public Notice, DA 12-1181 (July 25, 2012).

deployment to unserved areas across America.”² In addition to support provided under the legacy mechanism, the Commission allocated an additional \$300 million in “incremental” support under CAF Phase I to price cap carriers willing to commit to rapidly deploy broadband to consumers living in areas identified as lacking broadband service at the earliest possible date.

Funding for CAF Phase I was provided pursuant to Commission directive to USAC to reallocate unused funds that had been made available by Verizon Wireless and Sprint voluntarily phasing down their legacy high-cost support.³ The entire purpose of reallocating funds that are sitting in the USAC account is to provide an “immediate boost to broadband deployment in areas that are unserved by any broadband provider.”⁴ In the CAF Order, the Commission made clear that if any price cap carriers declined support under CAF Phase I, it reserved the right to use those funds in other ways to advance its broadband objectives.⁵

On July 25, 2012, the Commission announced that Price Cap carriers accepted only \$115 million out of \$300 million allocated to them in CAF Phase I.⁶ That is, Price Cap carriers collectively declined \$185 million in Phase I support. Some refused all of the support tendered by the Commission (e.g., AT&T and Verizon), while others filed waiver requests seeking relief that would allow them to overbuild unsubsidized carriers (e.g., CenturyLink) or draw many times the amount allocated per service location (e.g., Windstream).

² See, Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) at para. 132 (“CAF Order”).

³ Id., at paras. 564-7.

⁴ Id., at para. 137.

⁵ Id., at para. 138.

⁶ See, FCC, FCC Kicks-Off ‘Connect America Fund’ with Major Announcement: Nearly 400,000 Unserved Americans from Rural Communities in 37 States Will Gain Access to High-Speed Internet Within Three Years (July 25, 2012) http://thedcoffice.com/late_releases_files/07-25-2012/DOC-315413A1.pdf.

In response to the CAF Order, Windstream filed a Petition for Reconsideration and subsequent ex parte communications requesting, among other things, changes to CAF Phase I that would increase incremental support above \$775 per location served and allow Windstream to use CAF Phase I support to construct second mile facilities.⁷ The Commission rejected Windstream's petition for reconsideration.⁸

In its election, Windstream accepted \$653,325 of the \$60,404,310 that the FCC allocated to them in CAF Phase I. Windstream rejected the remaining \$59,750,985.⁹

In its waiver petition, Windstream seeks waiver of the \$775 per location requirement, and authority to construct second-mile facilities that would potentially serve an additional 16,138 locations, or \$3,702 per location ($\$59,750,985 \div 16,138 = \3702).

II. Windstream's Requests to Increase Funding Per Location and to Build Second-Mile Facilities Have Already Been Rejected

Windstream's waiver request is a loose rehash of its petition for reconsideration that, as set forth above, was previously rejected. As such, the Commission should summarily reject Windstream's waiver request as a repetitive petition for reconsideration.

III. Windstream's Disclosures About its Network Support Rejection of its Petition.

According to Windstream, since reaching 92% broadband deployment in its network, it is drawing \$181 million from federal stimulus funding, and adding \$60 million of its own funds,

⁷ See, e.g., Frontier Communications Corp. and Windstream Communications, Inc., Petition for Reconsideration and/or Clarification, WC Docket Nos. 10-90, et al., at 12-20 (filed Dec. 29, 2011).

⁸ See, Connect America Fund, Second Order on Reconsideration, FCC 12-47 (April 25, 2012).

⁹ See, Windstream Election and Petition for Waiver, WC Docket Nos. 10-90 and 05-337, filed July 24, 2012 (<http://apps.fcc.gov/ecfs/document/view?id=7021992477>) ("Windstream Waiver").

for a total of \$241 million, to increase its broadband deployment by one percent, from 92% to 93%.

Few will disagree that a quarter billion dollars to increase broadband penetration by such a small amount is a significant investment. Many might conclude that, depending upon the particular service areas where Windstream serves, some of the remaining 7% of unserved locations should be served through the FCC's Remote Area Fund. The question presented however, is whether the Commission should grant Windstream a waiver to allow it to build second-mile facilities that will serve relatively few locations at a cost that is over four times the amount allocated per location in CAF I.

Once CAF I support has been declined, it is incumbent upon the Commission to ensure that the declined funds are invested efficiently, to deploy broadband to the greatest number of rural locations. Windstream's claim that no other unsubsidized carrier has built there ignores that other carriers might build broadband there with a subsidy of \$775 per location, or perhaps less. Considered on its merits, Windstream's waiver request presents no probative argument in favor of a grant. In fact, its own disclosures should cause the Commission to immediately pivot to finding more efficient ways to deploy these funds in rural America.

IV. The Commission Should Immediately Reallocate All of the Declined Funding to the Upcoming Mobility I Auction.

The fastest most economical way to accelerate broadband deployment in rural America is to simply shift the funds rejected by all of the Price Cap carriers into the Mobility Phase I auction, scheduled for September 27, 2012. There is no point in funding over \$3700 per location served, as proposed by Windstream. It is simply wrong to state that "[t]he absence of any claimed presence of unsubsidized competition in these areas makes clear that the consumers

Windstream seeks to address are those that, absent support, will continue lack access to broadband service for the foreseeable future.”¹⁰ This ignores the real possibility that other companies will deliver broadband to areas where the price cap carriers have refused to serve. The National Broadband Map (“NBM”) bears this out, as it is not difficult to find places where competitive carriers have facilities near areas that lack broadband from the incumbent. Windstream would have the Commission believe that no other carrier would step up if a mechanism allowing it to draw support were implemented.¹¹

Reallocating rejected funds to the Mobility Fund will place such funds into a competitive bidding auction, which the Commission has already found to be an effective way to stretch universal service funds. Because winners at the Mobility Fund auction will be required to deploy 3G within two years and 4G within three years, the Commission can be assured that rural areas without broadband will get relief sooner rather than later. Areas where 3G and 4G networks can be overlaid onto existing towers will get service sooner and at a much more economical cost.

Carriers deploying 4G service using Long Term Evolution or High Speed Packet Access+ will immediately deliver broadband speeds well in excess of the Commission’s 4Mb/768kb standard, and such deployments will be capable of much higher speeds in the years to come. Mobile hotspots now provide Wi-Fi coverage that increases consumer access in areas lacking a wired connection. These advanced networks will have enormous impact in our nation’s rural areas.

¹⁰ See, Windstream Waiver, at n. 34.

¹¹ For example, using the NBM that shows carriers offering speeds in excess of 768 kbps download and 200 kbps upload, observe Nebraska, with and without the presence of wireless service. There are vast areas unserved by wireline technology that are currently covered by wireless. These networks could be rapidly improved with an overlay of LTE that would greatly expand broadband availability to rural citizens, delivering much faster speeds than 4/768, and greater reliability than citizens have access to today.
<http://www.broadbandmap.gov/number-of-providers>.

For example, according to the Pew Research Center, young adults, minorities, those with no college experience and those with lower household income levels who own smartphones are most likely to say that their phone is their main source of Internet access. One third of these adults do not have a traditional high-speed broadband connection at home.¹²

U.S. Cellular does not seek to relitigate here decisions made by the Commission to wall off a disproportionate amount of support to wireline carriers. What it does seek is for the Commission to now allocate funds, otherwise lying fallow, to carriers who are willing to step forward and provide service at the earliest possible date. Moreover, reallocating funding to the Mobility Fund I auction will begin to move overall CAF funding in the proper direction – toward the broadband services that rural consumers overwhelmingly prefer, and need.

¹² See, Digital Differences, Pew Internet and American Life Project, April 13, 2012, at p. 19. http://pewinternet.org/~media/Files/Reports/2012/PIP_Digital_differences_041312.pdf

V. Conclusion

U.S. Cellular respectfully requests the Commission to reject Windstream's waiver request and to immediately redeploy all declined CAF Phase I support to the Mobility Fund auction scheduled for September 27, 2012 so that carriers willing to deploy broadband infrastructure in rural America can do so at the earliest possible date.

Respectfully submitted,

UNITED STATES CELLULAR CORPORATION



By: _____
David A. LaFuria

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
(703) 584-8678

Grant B. Spellmeyer, Executive Director,
Federal Affairs & Public Policy
UNITED STATES CELLULAR CORPORATION
8410 West Bryn Mawr
Chicago, Illinois 60631
(773) 399-4280

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